

Department of Fair Employment & Housing

Mediation Program



What is mediation?

Mediation is a form of Alternative Dispute Resolution (ADR) utilized instead of the traditional investigative and litigation processes. A trained mediator assists the parties in negotiating a resolution of a complaint in an informal process. The mediator does not decide who is right or wrong and has no authority to impose a settlement on the parties. Instead, the mediator helps the parties to jointly explore different options and reconcile their differences.

What is the goal of the Program?

The goal of the program is to enhance case processing, settlement efforts, and overall service to the public. It will provide the Department of Fair Employment and Housing (DFEH) with a valuable mechanism to bring employees and employers together to quickly resolve legal differences. The result: a saving of time and money for employers and employees alike.

Why mediate?

Because mediation is:

Fair: The resulting agreement is the product of the parties' own ideas and is dependent on their mutual agreement to the terms.

Fast: Mediations are scheduled within a few weeks of the filing of a complaint. Successful mediation avoids a time-consuming investigation and achieves prompt resolution of the complaint.

Collaborative: Parties have more control during mediation. Both parties help control the outcome without having a solution imposed upon them.

Productive: Parties in mediation learn more effective communication and problem-solving skills that they can utilize in the workplace. Mediation can reduce an employee's emotional cost (stress, frustration, and sick leave usage) and free employer's resources for claims requiring extensive investigation to resolve.

Confidential: All discussions during mediation are strictly confidential and protected by California confidentiality laws. To ensure confidentiality, notes taken during the mediation are discarded and information revealed during the session cannot be disclosed to anyone, including DFEH's investigative and litigation units.

Economical: Mediation is an efficient process that avoids time-consuming, costly litigation and saves time and money for employees and employers. There is no cost to either party for the mediation.

Impartial: To ensure neutrality, mediations are conducted by trained mediators who have no involvement with or knowledge of the parties until they are assigned.

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When is mediation most effective?

Mediation is most effective when it is used as early as possible prior to a formal investigation of the charges. In addition, mediation prior to an investigation prevents the hardening of positions that can occur during a lengthy investigation.

How does the program work?

A mediation coordinator will contact both parties concerning voluntary participation in the program. Upon the agreement of both parties to mediate, a trained, neutral mediator is assigned to assist the parties in identifying the disputed issues and focus on reaching a mutually satisfactory solution. During the mediation, both sides are provided an opportunity to discuss their concerns and expectations for resolution. The decision to bring closure to a dispute and the resolution is between the parties. When consensus is reached, the mediator will assist the parties in drafting the specific terms of the mutually acceptable agreement. If a dispute is not resolved, the complaint will be referred back to the DFEH formal investigative process.

How were the mediators selected?

The Department received over 200 responses to the Request For Proposal (RFP) to establish a list of approved mediators. Applicants were ranked based on criteria that included mediation experience, training, and knowledge of state laws and regulations.

Describe the "firewall" approach between Enforcement and the Mediation Program.

The Department set-up the Mediation Unit separate and apart from the Enforcement Division. The Mediation Program Administrators report to a Deputy Director in Sacramento and the mediations will be conducted at locations separated from the DFEH district offices.

Where is the Program located?

The Mediation Program presently has offices in Emeryville (SF Bay Area) and Los Angeles. The Emeryville office will mediate cases referred from the Oakland, San Francisco and San Jose DFEH District Offices which serve the following counties: Alameda, Contra Costa, Napa, San Joaquin, Solano, San Francisco, Del Norte, Humboldt, Lake, Marin, Mendocino, San Mateo, Sonoma, Monterey, San Benito, Santa Clara, and Santa Cruz. The Los Angeles office will mediate cases referred from the Los Angeles District Office, which serves the county of Los Angeles. The Program will eventually be expanded to serve all counties in California.

How can I get more information about the program?

More details about the DFEH Mediation Program are posted on the program's website: www.dfehmp.ca.gov.